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**Commission on Ethics &
Public Trust
Miami-Dade County**

Memorandum

To: Jimmy Morales, Mayoral Candidate 2004

The Honorable Carlos Alvarez, Mayor
Miami-Dade County
The Honorable Chairperson, Joe Martinez
Members, Board of County Commissioners

From: Robert Meyers, Executive Director, Commission on Ethics and Public Trust

Date: August 15, 2006

Re: Final Audit Report – Jimmy Morales Election Campaign 2004

Attached is your copy of the above-referenced Final Audit Report.

For the post-election audit of the Jimmy Morales campaign, the COE was unable to audit 100% of the campaign expenditures listed on both the Campaign Treasurer's Reports (CTRs) filed with the Miami-Dade County Elections Department and the campaign bank account statements. As noted in this audit report, both the campaign bank statements and the CTRs filed with the Miami-Dade County Elections Department reflected a total of 989 expense transactions with an aggregate dollar value of \$2,209,425.89. However, for 462 campaign expenses with an approximate value of \$580,081, or 26% of the total \$2,209,425.89 expenditures, the Morales campaign was unable to provide the COE with independent third party documentation, such as vendor invoice, paid receipts, etc., that would directly match the transactions reported on the CTRs.

As a result, the COE could not determine whether these 462 unsupported campaign expenditures were in compliance with Miami-Dade County Code §12-22 (G), "Use of Funds."

Additionally, failure to retain campaign expenditure documentation is a violation of Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1) which requires the campaign to maintain adequate supporting documentation for all campaign expenditures to satisfy both full public disclosure and audit requirements of the ordinance.

For the remaining 527 campaign transactions with an approximate value of \$1,629,345 and representing 74% of the campaign's total expenditures of \$2,209,425.89, the COE found that these expenditures were adequately supported by independent third-party documentation. Thus, for these 527 campaign expense transactions, the COE was able to determine that the campaign was in general compliance with the requirements of Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds for these specific transactions.

With regards to compliance with Florida election laws, the COE noted several instances where there was a lack of compliance with Florida Statute Title IX, Chapter 106, "Campaign Financing," with some violations more significant than others. The more significant areas of concern include failure to close the campaign bank account within 90 days of the election date; failure to comply with the recently amended Florida law regarding campaign payments to third party intermediaries, including media consultants, by not filing the form "Itemized Distribution Form DS-DE 14A," to report each indirect payment incurred by the Morales campaign; disallowed reimbursements paid to campaign vendors and consultants; paying campaign and poll workers in cash; probable unauthorized use of the campaign debit card by the Campaign Manager; and use of the campaign debit card after the date of the election.

cc: Lewis B. Freeman, Campaign Treasurer
Kerry Rosenthal, Chairman, Commission on Ethics and Public Trust
Lester Sola, Supervisor of Elections

**COMMISSION ON ETHICS & PUBLIC TRUST
POST-ELECTION AUDIT OF THE CAMPAIGN ACCOUNT OF**

**JIMMY MORALES
MAYORAL CANDIDATE 2004**

EXECUTIVE SUMMARY

Item No.	Audit Findings	FL Statute / County Code Violation	Comments
1	The COE found there was insufficient supporting documentation for approximately \$580,081 (26%) of the total \$2,209,426 campaign expenses incurred by the Jimmy Morales campaign. (p. 5.)	Failure to provide adequate supporting documentation for campaign expenditures violates Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1) .	The COE auditor could not verify the validity of 462 campaign expenditures, totaling \$580,081, as these expenses lacked any supporting documentation in the form of an invoice or receipt from the vendor that provided the goods and/or services. {See Exhibit A.}
2	The campaign failed to close the campaign bank account within the requisite 90-day period after the date of the election. (p. 6.)	FL Statute §106.141(4) and Miami-Dade County Code §12-22 (f)(6) require that the candidate dispose of any surplus funds within 90 days after the election date, and close the campaign bank account within this timeframe.	Given that the candidate was in the run-off election on November 2, 2004, the Morales campaign was required to close the bank account by January 31, 2005. However, the COE independently confirmed with the campaign's banking institution that the campaign account was closed on February 23, 2005, which is 23 days after the requisite date. {See Exhibit B.}
3	The campaign made payments totaling \$916,625 to third-party intermediaries in furtherance of the election campaign without disclosing to the COE auditor's satisfaction that 80% of each expenditure was used for integral and directly related components of the third party expenditure. (pp. 7-8.)	Recent changes to FL Statute §106.021 <u>now</u> allow certain expenditures to be made indirectly through a Campaign Treasurer, as stated in FL Statute §106.07(4)(a)(13) , which requires: <ul style="list-style-type: none"> At least 80% of allowable multiple-component expenditures must be applied to integral and directly related components. Each component of multiple-component expenditure must be reported separately. The specific form for this purpose is currently being devised by the Fla. Division of Elections. In the meantime, candidates have been directed to use "Itemized Distribution Form DS-DE 14 A," for political committees. 	The Jimmy Morales Election Campaign made payments totaling \$916, 625 (41% of the campaign expenditures) to third parties such as media consultants and political consultants who would then purchase media or pay campaign workers on behalf of the campaign. In some cases, these consultants would use their own corporate checking account to make payment in furtherance of the Jimmy Morales election campaign without disclosing to the auditor's satisfaction that these subsequent expenditures complied with FL Statute §106.07(4)(a)(13) . {See Exhibit C.}

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4	<p>The campaign made payments totaling \$721,189 to media consultants without disclosing to the COE auditor's satisfaction that 80% of each expenditure was used for media buy expenditures. (pp. 8-9.)</p>	<p>Recent changes to FL Statute §106.021 <i>now</i> allow certain expenditures to be made indirectly through a Campaign Treasurer, as stated in FL Statute §106.07(4)(a)(13), which requires:</p> <ul style="list-style-type: none"> • At least 80% of media consultant's expenditures must be applied to media buys. • Each media buy must be reported separately. The specific form for this purpose is currently being devised by the Fla. Division of Elections. In the meantime, candidates have been directed to use "Itemized Distribution Form DS-DE 14 A," for political committees. 	<p>The COE noted that the Morales campaign made payments of \$721,189 (approximately 75% of the total campaign advertising expenditures of \$955,348.39) to media consultants for the purchase of media. Itemized Distribution Reports have not been filed in a timely manner to determine whether 80% of each media consultant expenditure was used for media buys, as per the requirement established at FL Statute §106.07(4)(a)(13).</p> <p>{See Exhibit D.}</p>
5	<p>The COE noted that the Morales campaign paid a total of \$97,299 (118 transactions) as reimbursements for campaign expenses. Of this amount, the COE could not verify whether \$72,568 (84 transactions) was in compliance with Florida law as there was insufficient documentation to substantiate what was reimbursed. Of the remaining \$24,731 (34 transactions) that was supported by documentation, \$13,232 (13 reimbursement transactions) was paid for expenses, which were not allowed to be reimbursed in accordance with Florida election law. (pp. 9-10.)</p>	<p>Florida Statute §106.021(3) addresses what is allowable as a reimbursement from a candidate's campaign bank account and it states the following:</p> <p>"...a candidate or any other individual may be reimbursed for expenses incurred for travel, food and beverage, office supplies, and mementos expressing gratitude to campaign supporters by a check drawn upon the campaign account..."</p>	<p>{See Exhibit E} for a list of individuals and corporations that received reimbursement checks from the campaign.}</p>

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6	<p>The COE noted that the Morales campaign paid Quantum Results \$46,784 for “Get-Out-The-Vote – GOTV,” which subsequently made cash payments to campaign and poll workers. Additionally, the campaign reimbursed The November Group \$1,200 for GOTV cash expenses incurred, which is not an allowable campaign reimbursement per Florida law. (p.10.)</p>	<p>Florida Statute §106.12, “Petty Cash Funds Allowed,” states that the only cash payments allowed under state law are from a petty cash fund. Expenditures for office supplies, transportation expenses, and other necessities are the only expenses allowed to be paid with petty cash funds.</p>	<p>{See Exhibit F} for supporting documentation.</p>
7	<p>The COE noted that the Morales campaign used the campaign debit card for 22 cash withdrawals, which totaled \$3,178. (p. 11.)</p>	<p>Florida Statute §106.11(2)(a)(6) prohibits the use of the campaign debit card for cash withdrawals and states the following:</p> <p>“A debit card is allowed as long as the person using the debit card does not receive cash as part of, or independent of, any transaction for goods or services.”</p>	<p>Based on review of the campaign bank account statements, the COE noted that the Morales campaign made 22 cash withdrawals, totaling \$3,178, using the campaign debit card. Additionally, the campaign could not provide paid receipts for these cash withdrawals. {See Exhibit G.}</p>

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<p style="text-align: center;">8</p>	<p>The COE observed that the primary user of the campaign debit card was Derek Newton, the Campaign Manager, as confirmed by emails exchanged between the campaign treasurer and Derek Newton. Additionally, the COE could not ascertain that Derek Newton was an authorized campaign debit card user based on inquiry of the candidate, the campaign treasurer and the Florida Division of Elections, which had no record of authorized debit card users. (pp. 11-12.)</p>	<p>Florida Statute §106.11(2)(a)(2) and §106.11(2)(a)(4) state that debit cards are considered bank checks if the “debit cards are issued in the name of the treasurer, deputy treasurer, or authorized user...” and “<i>before</i> a debit card is issued, a list of all persons authorized to use the debit card is filed with the division [Florida Division of Elections].”</p>	<p>{See Exhibit Q for copies of email correspondence; Exhibit P for copy of bank letter regarding the COE’s request for a signatory card.}</p>
<p style="text-align: center;">9</p>	<p>Based on review of the campaign bank statement for November 2004, the COE noted there were six (6) debit card charges, totaling \$4,719.13, which appeared to be incurred after the date of the election on November 2, 2004. (p. 12.)</p>	<p>Florida Statute §106.08(3)(b) and Florida Statute §106.141(1) prohibit a campaign from accepting a contribution <i>after</i> a candidate has been eliminated and also disallows the expending of any contribution received after a candidate has been eliminated.</p>	<p>{See Exhibit O for copies of supporting documentation.}</p>

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10	The Morales campaign issued two check payments totaling \$1,140 for the payment of fines incurred during the election campaign. (p. 13.)		The Florida Division of Elections has advised the COE that fines paid from the campaign account for such expenses as code violations due to political sign advertisements are not considered campaign expenditures and should not be paid with campaign funds. {See Exhibit I.}
11	Although requested, the COE was not provided with copies of IRS Form 1099 for 43 individuals who were paid \$600 or greater by the campaign. Thus, the COE could not verify whether these forms were filed with the IRS. The aggregate total amount paid to the 43 individuals by the Morales campaign was \$210,146. (p. 14.)		{See Exhibit K.}
12	The COE calculated total cumulative campaign expenditures to be \$2,209,425.89 for the Morales campaign. However, on the campaign's amended final CTR (Termination Report {A}) filed with the Elections Department, the campaign reported total cumulative expenditures as \$2,236,093.63, which is \$26,667.74 more than the COE's audited total. The COE was unable to reconcile this \$26,667.74 variance in campaign expenses to the amount reported on the final CTR. (p. 14.)		Based on the review of each CTR filed by the campaign as well as all the banking records, the COE noted math errors were made by the campaign on both the bank deposit slips, which the bank corrected and sent correction notices to the Campaign Treasurer, and the CTRs in reporting the periodic totals and the cumulative totals on the face of CTRs. The purpose of the COE's audit is <u>not</u> to reconcile the accounting records and CTR reports of a candidate's campaign. However, this issue is being reported to assist both the campaign and the Miami-Dade Election's Department to reconcile the Campaign Treasurers Reports to more accurately report the actual campaign dollars that funded the Jimmy Morales' election campaign based on the bank records from Bank of America. {See Exhibit H for copy of Final CTR.}

**Commission on Ethics & Public Trust
Post-Election Audit of the Campaign Account of
Mayoral Candidate Jimmy Morales**

INTRODUCTION

In March of 2001, the Miami-Dade County Board of County Commissioners adopted Ordinance No. 01-39 (the Ordinance) for campaign financing reform and is codified in Miami-Dade County Code §12-22. The Ordinance is intended to make the political process more accessible to candidates who run for the office of County Mayor or Commissioner by providing eligible candidates with public funding from the Election Campaign Financing Trust Fund (the Fund).

The Ordinance establishes the eligibility requirements that a candidate must meet in order to receive public funding from the Fund. For the office of County Commissioner, each candidate who satisfies these requirements may be eligible for a maximum contribution of \$75,000 in the primary election, and an additional \$50,000 if a run-off election occurs. For the Office of Mayor, each candidate who satisfies the eligibility requirements may receive \$300,000 for the primary election and an additional \$200,000 if the candidate is in a run-off election.

Additionally, the Ordinance requires the Commission on Ethics & Public Trust (COE) to conduct post-election audits ninety (90) days following the date of the election for those candidates who received public financing from the county. This is in keeping with both the requirements of §12-22 (f)(6) of the Code of Miami-Dade County and Florida Statute §106.141 (4), which require that the candidate dispose of any surplus funds remaining in the campaign account within 90-days of the election date by: (1) returning all surplus funds to the Election Campaign Financing Trust Fund; and, (2) any funds remaining in the campaign account that are in excess of the public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds.

Accordingly, the COE conducted a post-election audit of the campaign account of Jimmy Morales, mayoral candidate, who received a total of \$500,000 in public funding; \$300,000 for the primary election held on August 31, 2004 and an additional \$200,000 for the run-off election held on November 2, 2004.

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PURPOSE & SCOPE OF THE AUDIT

The post-election audit conducted by the COE focuses primarily on campaign expenditures as other Miami-Dade County agencies have been involved in current, on-going examinations of all campaign contributions for those candidates who received public monies. Therefore, to avoid redundancy the COE focused on the following audit objectives:

1. Verify that the candidate complied with County Code §12-22 (e)(1), which sets forth the expenditure limits for those candidates who receive public financing.
2. Verify that the candidate complied with County Code §12-22 (g), which pertains to the “Use of Funds.” This section describes six (6) types of expenditures that public funds **cannot** be used for, which are as follows:
 - a) Clothing for a candidate or an immediate family member of the candidate, except for a political advertisement as defined in Florida Statute §106.001 (17). An immediate family member is defined as the spouse, parents, children, and siblings of the candidate.
 - b) The purchase or rental of any vehicle for a candidate.
 - c) The enhancement of any vehicle owned by a candidate or an immediate family member of the candidate.
 - d) Personal grooming or cosmetic enhancements for a candidate.
 - e) Payment to candidate or an immediate family member for the purchase of goods or services.
 - f) Payment to any corporation, firm, partnership, or business entity owned or controlled by a candidate or an immediate family member for the purchase of any goods or services. “Controlled by” shall mean ownership, directly or indirectly, of 5% or more of the outstanding capital stock in any corporation, or direct or indirect interest of 5% or more in a firm, partnership, or other business entity.
3. Verify that the candidate disposed of any surplus funds remaining in the campaign account within 90-days following the election as required by County Code §12-22 (f) (6) and Florida Statute §106.141 (4).
4. Review for compliance with applicable sections of Florida Statute Title IX, Chapter 106, “Campaign Financing.”

The COE obtained copies of all bank statements and cancelled checks drawn against the campaign account, original and/or copies of vendor invoices and receipts, as well as any other accounting records, contracts and/or documentation which would independently substantiate the amount and purpose of the candidate’s campaign expenditures.

The scope of the audit encompassed the period of January 14, 2003 through February 23, 2005, which coincides with the timeframe the campaign account was opened and subsequently closed by the candidate. Additionally, the COE audited 100% of all campaign expenditures as reflected on both the Campaign Treasurer’s Reports and the campaign bank records.

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SUMMARY OF CAMPAIGN ACCOUNT ACTIVITY

Based on the COE's detailed review of the campaign bank statements and Campaign Treasurer's Reports (CTRs) on file at the Miami-Dade County Elections Department, it was noted that the Jimmy Morales campaign had a total of \$2,209,425.89 available to run the candidate's election campaign. Of the total \$2,209,425.89 in campaign funds, \$500,000 (approximately 23%) was received from the County's public trust fund and the remaining \$1,709,425.89 (77%) was acquired through private contributions and in-kind services. A breakdown of how the campaign funds were spent is illustrated in Table I. below and categorized by expense type:

TABLE I.

BREAKDOWN OF EXPENSES			
Expense Type	Dollar Amount of Expenses	% of Total Expenses	Allowable per Code §12-22 (g) or FL Stats?
Advertising	\$ 955,348.39	43.24	Yes
Consulting Fees	353,183.09	15.99	Yes
Printing Expenses	296,493.37	13.42	Yes
Payroll	114,616.36	5.19	Yes
Marketing	105,908.69	4.79	Yes
Expense Reimbursements ¹	94,740.82	4.29	Yes / No
Promotional Fees	83,674.72	3.79	Yes
Campaign and Poll Workers	58,814.73	2.66	Yes
Bonuses	25,500.00	1.15	Yes
Telephone and Electricity	24,752.70	1.12	Yes
Office Equipment	14,541.03	.66	Yes
Sponsorships	14,410.00	.65	Yes
Returned Contributions	14,323.93	.65	Yes
Rent	11,340.00	.51	Yes
Food Expense	6,415.06	.29	Yes
Office and Computer Supplies	6,159.50	.28	Yes
Postage	5,774.78	.26	Yes
Donations	3,500.00	.16	Yes
Parking Expenses	2,719.50	.12	Yes
Miscellaneous Expenses	2,692.31	.12	Yes
Transportations Expenses	2,569.50	.12	Yes
Office Cleaning and Maintenance	2,477.15	.11	Yes
Loan Repayment	2,431.48	.11	Yes
Election Fees	2,232.42	.10	Yes
Bank Fees	2,126.08	.10	Yes
Fines	1,140.00	.05	No
Equipment Rental	1,047.57	.05	Yes
Car Rental	260.71	.01	Yes
Security	232.00	.01	Yes
TOTAL:	\$2,209,425.89 ²	100%	

¹ See p. 9 of this report for further detail regarding reimbursements paid by the Morales campaign.

² The COE calculated total campaign expenditures to be \$2,209,425.89 for the Morales campaign. However, on its Termination Report (A), the campaign filed total expenditures as \$2,236,093.63, which is \$26,667.74 more than the COE's audited total. The COE was unable to reconcile this \$26,667.74 variance in actual campaign expenses to the amount reported on the final CTR, i.e., Termination Report (A).

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The COE notes that the expense classifications used in Table I. above were taken from the description on the Campaign Treasurer's Reports filed with the Miami-Dade County Department of Elections. In other words, the COE *did not* create these expense classifications; rather, the COE used the expense descriptions found in the candidate's campaign records.

CANDIDATE'S COMPLIANCE WITH COUNTY CODE § 12-22

a. Compliance with Campaign Expenditures Limit

Miami-Dade County Code §12-22 (e) requires that Mayoral candidates who request public funding from the Elections Campaign Financing Trust Fund limit their campaign contributions and expenditures to \$600,000 for the primary election unless one candidate exceeds the established contribution limit. On November 25, 2003, the campaign contribution limit was lifted for the Mayoral race, as one candidate exceeded the contribution limit by raising contributions in excess of the \$600,000 limit. Therefore, as a result of the expenditure limit being lifted for the Mayoral campaign, candidates were able to raise contributions in excess of the established limits set for both the primary and run-off elections (i.e. \$600,000 and \$400,000, respectively).

NO EXCEPTIONS NOTED.

b. Compliance with County Code §12-22, Subsection (g) "Use of Funds"

To verify the candidate's compliance with Code §12-22 (g), "Use of Funds," the COE reviewed the candidate's campaign expenses and verified whether the public funding portion of the campaign account was not used to pay for: clothing for the candidate or their immediate family member, except for a political advertisement as defined in Florida Statute §106.001(17); the purchase or rental of any vehicle for a candidate; the enhancement of any vehicle owned by a candidate or an immediate family member of the candidate; or personal grooming or cosmetic enhancements for a candidate.

Additionally, for payments made to individuals from the campaign account, the COE researched whether the payee was an immediate family member of the candidate. "Immediate family member" refers to the candidate's spouse, parents, children, and siblings. For payments made to business entities from the campaign account for the purchase of goods or services, the COE researched whether the business entity is owned or controlled by the candidate or an immediate family member of the candidate.

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Based on review of the supporting documentation provided to the COE auditors, the COE verified that 527 campaign expenditures with an approximate value of \$1,629,345 or 74% of the campaign's total expenditures, complied with the requirements of Code §12-22 (g), "Use of Funds," as these transactions were supported by adequate documentation.

However, as described in greater detail in the section below, there were 462 campaign expenditures with an approximate value of \$580,081 or 26% of the campaign's total expenditures, that lacked sufficient supporting documentation resulting in the COE's inability to verify that these funds were spent in compliance with County Code §12-22 (g), "Use of Funds."

c. Insufficient Supporting Documentation for 462 (26%) Campaign Expenditure Transactions

Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1) requires the campaign to maintain adequate supporting documentation for all campaign expenditures to satisfy both full public disclosure and COE audit requirements. Additionally, Florida Statute §106.06, "Treasurer to Keep Records; Inspections" states in subsection (3) the following:

"Accounts kept by a campaign treasurer of a candidate shall be preserved by the campaign treasurer for a number of years equal to the term of office of the office to which the candidate seeks election."

Therefore, to comply with Florida law, a Miami-Dade County mayoral candidate is required to maintain all campaign account records for a period of four (4) years, regardless of whether that candidate was elected or not.

The COE auditor examined all supporting documentation provided by the campaign in an attempt to verify that each expense transaction was adequately supported by independent third party documentation including contracts, purchase orders, vendor invoices and receipts, cancelled checks, etc.

Based on review of all supporting documentation the Campaign Treasurer and the candidate provided to the COE, it was noted that 462 campaign expenses with a value of \$580,081.27 or 26% of total \$2,209,425.89 campaign expenditures audited by the COE, did not have sufficient supporting documentation to substantiate the validity of the campaign expenditure. *(See Exhibit A for listing of all expenses without supporting documentation.)*

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d. Lack of Compliance with County Code §12-22, Subsection (f)(6) “Disposal of Surplus Funds”

County Code §12-22(f)(6) and Florida Statute §106.141(4) require that the candidate close the campaign bank account by disposing of any surplus funds remaining in the campaign account within 90 days after the election date in the following manner: (1) return all surplus funds to the county’s Election Campaign Trust Fund; and, (2) any funds remaining in the campaign account that are in excess of the county’s public funding received should be disposed of per Florida Statute §106.141, Disposition of Surplus Funds. Given the run-off election was held on November 2, 2004, the 90-day period for returning any surplus funds and closing the campaign bank account ended on January 31, 2005.

Additionally, the candidate received a total of \$500,000 from Miami-Dade County’s Elections Trust Fund: \$300,000 during the primary election and \$200,000 for the run-off election. The County Code §12-22 (f)(6) requires that if there are surplus funds remaining in the campaign account after the final election date, i.e. November 2, 2004, the candidate is to return any surplus funds that were received from the County’s public financing fund to the County’s Election Campaign Financing Trust Fund within 90 days of the election date.

The COE auditor did note that on August 10, 2004 the candidate had personally loaned his campaign \$6,000 and was entitled to pay himself back an amount equal to the balance of the \$6,000 loan to his election campaign at the conclusion of the campaign. Thus, on February 23, 2005 the candidate closed out the campaign account by repaying himself a portion of the \$6,000 loan he had made to his campaign. Specifically, the candidate reported on the campaign’s Termination Report (TR-A), dated March 30, 2005, that he repaid himself \$2,431.48 as a partial repayment of a loan to his campaign. This effectively zeroed out the remaining funds in the campaign account. *(See Exhibit N, “TR-A” which shows the candidate’s loan and his loan repayment.)* **NO EXCEPTIONS NOTED.**

AUDIT FINDING

Campaign Bank Account Not Closed Within 90 Days

The COE independently confirmed whether the campaign bank account was properly closed within the mandated timeframe by requesting written confirmation from the banking institution that the bank account was closed by January 31, 2005. The COE received a letter from Bank of America stating that the Jimmy Morales Campaign Account was closed on February 23, 2005, which is 23 days after the January 31, 2005 deadline. *(See Exhibit B for supporting documentation.)*

COMPLIANCE WITH FL STATUTE TITLE IX, CHAPTER 106, “CAMPAIGN FINANCING”

Election campaign finance laws are found in Florida Statute Chapter 106 and interpretations of these statutes are provided by the Florida Elections Commission as Elections Opinions. As part of this audit, the COE reviewed the relevant Florida statutes and the Elections Opinions to ensure the candidate’s campaign was in substantial compliance with the applicable statutory requirements.

Through inquiry of the Campaign Treasurer for the Jimmy Morales campaign and review of campaign bank account records, cancelled checks, related vendor invoices, and other supporting documentation for campaign expenditures, the following are the COE’s audit observations with regards to compliance with Florida Statute Chapter 106, “Campaign Financing:”

A. Expenditures in Furtherance of the Campaign Through Third Parties Not Disclosed on Form DS-DE 14 A, “Itemized Distribution Form”

Recent changes to FL Statute §106.021 *now* allow certain expenditures to be made indirectly through a Campaign Treasurer, as amended in FL Statute §106.07(4)(a)(13), which currently states and requires:

- (1) “The primary purposes of an expenditure made indirectly through a Campaign Treasurer pursuant to s. 106.021(3) for goods and services such as communications media placement or procurement services, campaign signs, insurance, and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure.”
- (2) The amended law requires that each component of multiple-component expenditures must be reported separately. The specific form for this purpose is currently being devised by the Florida Division of Elections. In the meantime, candidates have been directed to use “Itemized Distribution Form DS-DE 14A,” for political committees.

Based on a review of cancelled checks and supporting documentation provided by both the campaign and third party intermediaries, the COE noted that the Jimmy Morales campaign made payments totaling \$916,625 (approximately 41% of the total campaign expenditures), to third parties such as media consultants, political consultants and a payroll processing vendor who would then purchase media or pay campaign workers on behalf of the Jimmy Morales campaign. In some cases, the vendors would use their own corporate checking account to make payments in furtherance of the Morales’ election campaign or would cash out the campaign check they received and make cash payments to poll workers and other campaign workers. The payments to third party vendors noted by the COE are summarized as follows:

(See Exhibit C for supporting documentation.)

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Lukis Balsera, LLC	\$ 473,948
Perla Productions, Inc	\$ 216,200
Paychex	\$ 108,450
Quantum Results	\$ 47,024
The Zachary Group	\$ 27,000
Jesus Junco	\$ 20,171
The November Group	\$ 12,962
Ridims Marketing Group	\$ 6,970
TGF Productions	\$ 2,400
Baez Communications	\$ <u>1,500</u>
	\$ 916,625

AUDIT FINDING

Although recent changes to FL Statute §106.07(4)(a)(13) allow campaigns to pay third-party intermediaries for campaign-related expenses, the amended law now requires that at least 80% of allowable multiple-component expenditures must be applied to integral and directly related components and also “each component of multiple-component expenditure must be reported separately.”

The COE auditor was unable to verify whether this 80% rule was met as the requisite reporting form, “Itemized Distribution Form DS-DE 14 A,” for each campaign payment to a third party was not filed by the Morales campaign with the Florida Division of Elections.

B. Campaign Payments to Media Consultants for the Purchase of Media Not Disclosed on Form DS-DE 14 A, “Itemized Distribution Form”

Recent changes to FL Statute §106.021 *now* allow certain expenditures, including media buys, to be made indirectly through a Campaign Treasurer, as stated in FL Statute §106.07(4)(a)(13), which currently requires:

- (1) At least 80% of media consultant’s expenditures must be applied to media buys; and,
- (2) Each media buy must be reported separately and timely filed with Elections. The specific form for this purpose is currently being devised by the Florida Division of Elections. In the meantime, candidates have been directed to use “Itemized Distribution Form DS-DE 14 A,” for political committees.

Based on a review of supporting documentation, the COE noted that the campaign made payments totaling \$721,189 (32% of the campaign’s total campaign expenditures and 75% of total advertising expenses of \$955,348.39) to various media consultants for the purchase of media. (*See Exhibit D for detailed schedule of payments.*) Campaign payments to media consultants are summarized as follows:

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Lukis Balsera, LLC	\$ 473,948
Perla Productions, Inc	\$ 216,200
Jesus Junco	\$ 20,171
Ridims Marketing Group	\$ 6,970
TGF Productions	\$ 2,400
Baez Communications	\$ 1,500
TOTAL	\$ 721,189

AUDIT FINDING

Although recent changes to FL Statute §106.07(4)(a)(13) allow campaigns to indirectly pay for media buys through a media consultant, the amended Florida law requires additional disclosures from the campaign to be reported for each media buy expenditure. Campaigns who use media consultants for the purpose of purchasing media advertisements must now file the form, “Itemized Distribution Form DS-DE 14 A,” for each media buy incurred by the campaign. Additionally, the amended Florida law requires that at least 80% of the media buy be directly related to the purchase of media. Thus, no more than 20% of the campaign’s payment to the media consultant can be for the media consultant’s fees.

Based on inquiry of the candidate and review of campaign records, the COE auditor was unable to verify whether this 80% rule was met as the requisite reporting form, “Itemized Distribution Form DS-DE 14 A,” for each campaign payment to a media consultant was not filed by the Morales campaign with the Florida Division of Elections or the Miami-Dade County Elections Department.

C. Disallowed Reimbursements Paid to Campaign Consultants

Florida Statute §106.021(3) addresses what is allowable to be paid as a reimbursement from a candidate’s campaign bank account and specifically states the following:

“...a candidate or any other individual may be reimbursed for expenses incurred for travel, food and beverage, office supplies, and mementos expressing gratitude to campaign supporters by a check drawn upon the campaign account...”

AUDIT FINDING

Based on review of all cancelled checks, the COE noted that the campaign issued 118 checks, with a total value of \$97,298.92, as reimbursements to both individuals and campaign consultants. Of the total 118 reimbursement checks, the COE found supporting documentation for thirty-four (34) reimbursement checks with a total value of \$24,330.63.

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Of the 34 reimbursement checks with supporting documentation, the COE found that twelve (12) reimbursement checks, totaling \$13,231.91 (approximately 14% of the \$97,298.92 reimbursements paid) were for disallowed reimbursable expenses, i.e. other than "...travel, food and beverage, office supplies, and mementos..." in violation of Florida Statute §106.11(1). Specifically, the Morales campaign inappropriately issued reimbursement checks for expenses such as health insurance, janitorial services, plumbing costs, tent rental, among other miscellaneous expenses. To comply with Florida law, these expenses should not have been paid as reimbursements; instead, the campaign should have issued a check payment from its campaign bank account directly to the vendor that provided these goods and services.

Lastly, of the total 118 reimbursement checks issued that totaled \$97,298.92, eighty-four (84) check payments, or \$72,968.29, (approximately 75% of the \$97,298.92 reimbursements paid) did not have any supporting documentation other than the cancelled check. Therefore, for these 84 reimbursement checks issued by the Morales campaign, the COE could not verify whether the reimbursements paid were in compliance with Florida law which specifies what types of campaign expenditures are allowed to be reimbursed. *(See Exhibit E for a list of individuals and corporations that received reimbursement checks from the campaign.)*

D. Cash Payments Paid to Campaign Workers

Florida Statute §106.11(1)(a) prohibits cash payments to poll workers and other campaign vendors. The only cash payments allowed under state law are for petty cash, which is addressed in Florida Statute 106.12, "Petty Cash Funds Allowed." This statute specifically states that the only campaign expenditures allowed to be paid from petty cash are as follows:

1. Office supplies;
2. Transportation expenses; and,
3. Other necessities (i.e., when the campaign check book is not readily available to pay for incidentals.)

The COE noted that the Morales campaign paid Quantum Results \$46,784 for "Get-Out-The-Vote – GOTV," which subsequently made cash payments to campaign and poll workers. Additionally, the campaign reimbursed The November Group \$1,200 for GOTV expenses incurred, which is not an allowable campaign reimbursement per Florida law. *(See Exhibit F for supporting documentation.)*

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E. Use of Campaign Debit Card for Cash Withdrawals

The Florida Department of Elections has indicated that it is lawful for local candidates to use a debit card to pay for campaign expenses only if the debit card is issued from the campaign's primary bank depository.

However, Florida Statute 106.11 (2)(a)(6) prohibits the use of debit cards by the campaign for cash withdrawals and states the following:

“A debit card is allowed as long as the person using the debit card does not receive cash as part of, or independent of, any transaction for goods or services.”

Based on review of the campaign bank account statements, the COE noted that the Morales campaign made 22 cash withdrawals, totaling \$3,178, using the campaign debit card. The debit card was issued to the Jimmy Morales campaign from Bank of America, where the candidate maintained the primary campaign depository. Additionally, the campaign did not provide the COE any supporting documentation (i.e. paid receipts or invoices) for the debit card withdrawals. As a result, the COE could not verify whether or not the debit card withdrawals were used for legitimate campaign expenditures. (*See Exhibit G for supporting documentation.*)

F. Unauthorized Use of Campaign Debit Card

Florida Statute 106.11 (2)(a)(2) and 106.11 (2)(a)(4) state that debit cards are considered bank checks if the “debit cards are issued in the name of the treasurer, deputy treasurer, or authorized user...” and “before a debit card is used, a list of all persons authorized to use the card is filed with the division.”³

During the course of the audit, the COE observed that the primary user of the campaign debit card was Mr. Derek Newton, the Campaign Manager, as confirmed by emails exchanged between Derek Newton and the Campaign Treasurer's office of Lewis B. Freeman and Associates. (*See Exhibit Q for copies of email correspondence.*) Additionally, the COE requested a copy of a bank signatory card for the campaign bank account and debit card to determine if Derek Newton was authorized to use the campaign's bank debit card, as Derek Newton was neither the Campaign Treasurer nor Deputy Treasurer during the campaign period.

³ “Division” refers to the Florida Division of Elections.

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In response to our inquiry, the COE was informed by the candidate's bank that these records were no longer available as they could not retrieve the signature card due to the length of time the account has been closed. Therefore, the COE was unable to verify whether Derek Newton was rightfully authorized to use the campaign debit card. *(See Exhibit P for copy of letter from bank regarding this request for documentation.)*

G. Use of Campaign Debit Card After Date of the Election

Florida Statute §106.08(3) (b) and §106.141(1) prohibit a campaign from accepting a contribution after a candidate has been eliminated and also disallows the expending of any contribution received after a candidate has been eliminated.

AUDIT FINDING

Based on the COE's review of the campaign account bank statement for November 2004, the COE noted the following debit card charges on the following dates, which were after the date of the election on November 2, 2004:

DATE	AMOUNT	DESCRIPTION
11/03/04	\$9.57	Kinko's #1533 ⁴
11/04/04	\$368.94	Kinko's #1533 ⁴
11/05/04	\$4,079.91	Dodd Printers
11/08/04	\$129.99	Enterprise Rent-a-car
11/08/04	\$65.36	Enterprise Rent-a-car
11/08/04	\$65.36	Enterprise Rent-a-car
TOTAL	\$4,719.13	

(See Exhibit O for copies of supporting documentation.)

⁴ The COE cannot verify if the debit card transaction was made on or before November 2, 2004, the election date, as no receipts for the debit card transactions were provided. Therefore, the COE used the dates per the bank posting of the withdrawals.

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H. Payment of Fines

The Florida Division of Elections has advised the COE that fines for code violations due to political sign advertisements or for traffic violations are not considered campaign expenditures and should not be paid with campaign funds.

AUDIT FINDING

The COE auditor noted that the campaign issued two checks for a total of \$1,140 to pay fines incurred during the course of the election campaign. (*See Exhibit I for supporting documentation.*)

I. Bank Deposits after the Date of the Election

Florida Statute §106.08(3)(b) and §106.141(1) prohibit a campaign from accepting a contribution after a candidate has been eliminated and also disallows the expending of any contribution received after a candidate has been eliminated. Florida Statute §106.011(3)(a) defines a “contribution” as a “...deposit, loan, payment, or distribution of money or anything of value...”

Based on the COE’s review of the campaign account bank statements and deposit slips, it was noted that the campaign made deposits totaling \$2,206.26 to the campaign bank account on November 8, 2004, which was six (6) days after the election date. (*See Exhibit J for supporting documentation.*)

Through inquiry of the candidate, the COE was informed that “each of the items posted to the account...represented amounts that had been paid to a vendor by the campaign that were then returned or rebated to the campaign [*after the date of the election*]. Two were returns of deposits from the phone company, one was a rebate of left over money at a radio station, one was a return of a deposit from the City of North Miami Beach, and one was a refund from a vendor. None of them were contributions to the campaign.” (*See Appendix of this report for candidate’s response.*)

Therefore, the COE concludes these deposits were not campaign contributions received by the candidate. **NO EXCEPTIONS NOTED.**

OTHER AUDIT OBSERVATIONS

a. W-2 Forms Filed for Campaign Employees by “Paychex”

Based on review of the accounting records from the payroll processing service provider, “Paychex,” the COE auditor verified that the Morales campaign had timely filed W-2 forms for those individuals who received wages from the campaign account. It was noted that eleven (11) employees were paid a total of \$108,450 during the election campaign period, which spanned the calendar years 2003 and 2004. **NO EXCEPTIONS NOTED.**

b. IRS Forms 1099-MISC

Based on our examination of the campaign accounting records, the COE did not find any IRS Forms 1099 completed for approximately 43 campaign staff and/or individual consultants who received payments equal to or greater than \$600.00, which is the IRS’s minimum dollar amount required for completing and filing Forms 1099-MISC. Although requested from the campaign, the COE but did not receive copies of the Forms 1099 filed with the IRS for any of the 43 individuals that received compensation equal to or greater than \$600 and totaled approximately \$210,146. *(See Exhibit K for supporting documentation.)*

c. Variance Between Total Campaign Expenditures per the Termination Report and the COE’s Total Campaign Expenses Audited

The COE calculated the total cumulative campaign expenditures to be \$2,209,425.89 for the Jimmy Morales campaign, as noted in Table I above. However, on the campaign’s amended final CTR (Termination Report {A}) filed with the Miami-Dade Elections Department, the campaign reported total cumulative expenditures as \$2,236,093.63, which is \$26,667.74 more than the COE’s audited total. The COE was unable to reconcile this \$26,667.74 variance in actual campaign expenses to the amount reported on the final CTR. *{See Exhibit H for copy of Final CTR.}*

However, based on the review of each CTR filed by the campaign as well as all the banking records, the COE noted math errors were made by the campaign on both the bank deposit slips, which the bank corrected and sent correction notices to the Campaign Treasurer, and the CTRs in reporting the periodic totals and the cumulative totals on the face of CTRs. The purpose of the COE’s audit is not to reconcile the accounting records and CTR reports of a candidate’s campaign. However, this issue is being reported to assist both the campaign and the Miami-Dade Election’s Department to reconcile the Campaign Treasurers Reports to more accurately report the actual campaign dollars that funded the Jimmy Morales’ election campaign based on the bank records from Bank of America.

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AUDIT CONCLUSION

For the post-election audit of the Jimmy Morales campaign, the COE was unable to audit 100% of the campaign expenditures listed on both the Campaign Treasurer's Reports (CTRs) filed with the Miami-Dade County Elections Department and the campaign bank account statements. As noted in this audit report, both the campaign bank statements and the CTRs filed with the Miami-Dade County Elections Department reflected a total of 989 expense transactions with an aggregate dollar value of \$2,209,425.89. However, for 462 campaign expenses with an approximate value of \$580,081, or 26% of the total \$2,209,425.89 expenditures, the Morales campaign was unable to provide the COE with independent third party documentation, such as vendor invoice, paid receipts, etc., that would directly match the transactions reported on the CTRs.

As a result, the COE could not determine whether these 462 unsupported campaign expenditures were in compliance with Miami-Dade County Code §12-22 (G), "Use of Funds." Additionally, failure to retain campaign expenditure documentation is a violation of Miami-Dade County Code §12-22, Subsection (f)(3)(a)(1) which requires the campaign to maintain adequate supporting documentation for all campaign expenditures to satisfy both full public disclosure and audit requirements of the ordinance.

For the remaining 527 campaign transactions with an approximate value of \$1,629,345 and representing 74% of the campaign's total expenditures of \$2,209,425.89, the COE found that these expenditures were adequately supported by independent third-party documentation. Thus, for these 527 campaign expense transactions, the COE was able to determine that the campaign was in general compliance with the requirements of Miami-Dade County Code §12-22 (G), "Use of Funds," as no disallowed expenses were paid with public funds for these specific transactions.

With regards to compliance with Florida election laws, the COE noted several instances where there was a lack of compliance with Florida Statute Title IX, Chapter 106, "Campaign Financing," with some violations more significant than others. The more significant areas of concern include failure to close the campaign bank account within 90 days of the election date; failure to comply with the recently amended Florida law regarding campaign payments to third party intermediaries, including media consultants, by not filing the form "Itemized Distribution Form DS-DE 14 A," to report each indirect payment incurred by the Morales campaign; disallowed reimbursements paid to campaign vendors and consultants; paying campaign and poll workers in cash; probable unauthorized use of the campaign debit card by the Campaign Manager; and use of the campaign debit card *after* the date of the election.

The COE appreciates the cooperation extended by all parties involved with the Jimmy Morales campaign throughout the course of this audit.

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EXHIBITS

- A. Expenditures Without Adequate Supporting Documentation
- B. Campaign Bank Account Closure Letter
- C. List of Expenditures in Furtherance of the Campaign Through Third Parties
- D. Schedule of Third Party Media Buys
- E. Reimbursements Paid by Campaign
- F. Reimbursements & Payments for GOTV, Poll Workers, Etc.
- G. List of Debit Card Cash Withdrawals Without Documentation
- H. Final Amended Campaign Treasurer's Report : Termination Report – TR(A)
- I. Copies of Checks to Pay Fines
- J. Bank Statements With Deposits After the Election Date
- K. List of Campaign Workers without 1099s
- L. *(Exhibit not used.)*
- M. *(Exhibit not used.)*
- N. Copy of TR-A p. 2 dated 3/30/05 with Candidate's Loan Repayment Listed
- O. November 2004 Bank Statement with Debit Card Usage after Election Date
- P. Copy of letter from Bank Re: Bank Signatory Names
- Q. Copies of Emails to Campaign Treasurer from Campaign Manager re: Use of Debit Card

APPENDIX

- 1. Campaign's Response to the Draft Audit Report

**STEARNS WEAVER MILLER
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August 4, 2006

Christina M. Topley
Commission on Ethics and Public Trust
19 West Flagler Street
Suite 207
Miami, FL 33130

Re: Jimmy Morales Campaign Account

Dear Ms. Topley:

I am writing this letter as my response to the Draft Audit Report.

Let me first state that I welcome the conclusion that my campaign was in general compliance with the requirements of Miami-Dade County Code Sec. 12-22(G), "Use of Funds", as it is clear that the \$500,000 I received were spent on allowable expenses on the campaign. It was always my understanding that such conclusion was the primary purpose of the post-election audit.

I will address the 14 points that you raise in your report:

1. I have to acknowledge that my campaign staff failed to retain some receipts and other written records during the course of the year and a half campaign. I have been endeavoring to locate such receipts and other documentation after the fact, but that task is made difficult by the passage of nearly two years, not to mention that it would be a full time job for several weeks at least to try to locate and contact many of these businesses and individuals.

That said, I have tried my best. Attached hereto you will find additional receipts corresponding to 57 items on your Exhibit A and representing a total dollar amount of \$71,386.83. Additionally, I note that a large portion of the undocumented expenses is for payments to individuals working for the campaign. I have tried to locate some of these individuals and obtain from them a letter verifying their employment, their Social Security number and the amount of payments that your report indicates. Attached hereto you will find letters from 7 such individuals, representing a total dollar amount of \$42,284.00.

I also note that there are \$54,500 in payments to The Zachary Group. They are an outfit out of Tallahassee that produced my TV spots. I believe you have an e-mail verifying the payments. Due to computer difficulties in the past two years, they cannot reproduce the invoices for their services. I have asked Mr. Gary Yordin, the

principal of the Company, to send you a letter verifying receipt of those amounts. I have not received it as of the date of this response, but will continue to try to obtain it.

I am quite confident that every penny of campaign funds that I either raised from private sources or received from the County Campaign Trust was spent in furtherance of the campaign. Unfortunately, as a full time candidate in a very large countywide election, I was not able to personally monitor every receipt and expenditure. But there was certainly no willful violation of Miami-Dade County Code Sec. 12-22(f)(3)(a)(1).

2. It is true that the campaign account was closed on February 23, 2005. As I believe you know, my father entered the hospital on December 25, 2004 and remained there until his death on February 18, 2005. Needless to say, I was focused on my personal and family issues during that time and did not pay attention to any post-election matters, and I certainly had no staff at that point to handle such matters. After he passed away, my treasurer politely asked me to close the account, which I did.
3. I certainly acknowledge that some campaign expenses were made through third party intermediaries. The vast majority of those expenses (approximately 70%) were for media consultants that would both advise as to the content of the advertising, as well as place those ads using their expertise and judgment. I was not aware that such payments were prohibited, since many of the campaigns with which I had been involved over the years had engaged in similar activity and, it is my understanding that such payments were indeed common practice. Most private businesses and non-profits use media consultants to create and place advertising and there is certainly nothing unethical about it. In fact, I suspect that the wide spread nature of this activity is why the Florida Legislature actually amended the law in 2004. Section 106.021(3)(c), Florida Statutes, specifically permits such payments as follows:

(c) Expenditures made indirectly through a treasurer for goods and services, such as communications media placement or procurement services, campaign signs, insurance or other expenditures that include multiple integral components as part of the expenditure and reported pursuant to Sec. 106.07(4)(a)(13);

Interestingly, in adopting these amendments to Section 106.021(3), the Legislature indicated that these amendments would be effective July 1, 2004 and operate retroactively to January 1, 2002 (a copy of the amended statute is attached hereto). As such, I do not believe such expenditures were in fact in violation of the statute. I

will admit that candidates and treasurers need some guidance on this aspect of campaign finance and how to properly account for such expenditures going forward.

One other large item was the \$108,450 paid to Paychex. Paychex provided payroll services to the campaign, and the payments to them included the salaries they paid for us, as well as their fee for that service. I believe you have a copy of our payroll books and also the accounting records from Paychex. You have verified their services. I believe that such a service would qualify as a permissible under Section 106.021(3)(c) as amended.

4. This is the issue of the payments to media consultants. I reiterate my arguments in paragraph 3 above. Furthermore, you will note that the two most significant of these were Lukis Balsera and Associates, and Perla Productions (approximately 95% of such payments). I have in the past submitted log sheets from various television stations indicating advertising that was placed by these companies. It should be apparent that they were engaged actively in placing my ads during the campaign. As is often the case, advertising is placed on a moments notice as funds become available. Unfortunately, this is not always conducive to the best record keeping.
5. It is virtually impossible at this point to recreate receipts for these reimbursements. I have attached hereto a group of receipts that I located, but have been unable to tie to any one reimbursement item, particularly since it appears that individuals would bundle together various reimbursements in one check. It does appear to me, however, that these reimbursements were mainly for (i) campaign office supplies, (ii) food and supplies for special events, and (iii) payments to vendors that would not accept checks (e.g. the cleaning lady at our campaign headquarters). We had many events during the campaign where last minute expenditures would be required and there was no time to get a check or the vendor would not accept one. It was in those occasions that workers would pay directly and get reimbursed. I do acknowledge that there should have been better bookkeeping of these items.
6. Quantum Results is a firm specializing in GOTV campaigns. Its services include multiple integral components, as is permitted by Section 106.021(3)(c), Florida Statutes. For some of those components, they have people they hire (e.g. phone bank operators, grass roots organizers, poll workers, etc.). The firm has worked on many campaigns in Miami-Dade County and I believe their activities on behalf of my campaign were consistent with their activities on behalf of such other campaigns. As for the expenditures by the November Group, it is my understanding that these were also GOTV expenditures that were paid in cash by the November Group, who was managing my campaign. There are many people in this community who do not have checking accounts and will not take checks. Some of these people work on

campaigns and need to be paid in cash. Apparently, some of those payments came through the November Group in a de minimus amount of \$1,200.

7. The cash withdrawals on the campaign debit card were certainly in a very small amount (\$3,178) when compared to an overall campaign budget of approximately \$2.2 million. Furthermore, there are individuals and vendors that will only be paid in cash. As I noted in paragraph 6 above, there are campaign workers (particularly poll workers) who require payment in cash because they have no bank account into which to deposit a check. I think that my campaign staff kept that number to a minimum in light of the reality in Miami-Dade County.
8. Derek Newton was the campaign manager and had full day-to-day control of the campaign. It was my understanding that he did have authority to use the debit card. Unfortunately, Bank of America, the bank handling the campaign account, destroys all signature cards and such records within one year of the closing of the account. I cannot produce those records at this point.
9. In reviewing the debit card charges made after Election Day, which were certainly not in a material amount (\$4,719.13), it is clear that the rental car charges for vans used on Election Day would only be charged once they were returned, and the printing items (i.e. the charges by Kinkos and Dodd Printers) were for signs and flyers used on election day, but for which they obviously did not submit the charge until after the fact. There was clearly no intent to violate this statute. Furthermore, I would hope that the law would want debts paid, no matter when the invoice is received, as long as the expense was incurred on or before Election Day.
10. I acknowledge that the Campaign should not have paid the fines, and that I personally should have paid the \$1,140. The result would have been the same; however, since that \$1,140 would then have been left over in the campaign account to repay the personal loan I made to the campaign (which was only partially repaid).
11. There were no contributions made or received after the election day. Each of the items posted to the account (only \$2,206.26 in total) represented amounts that had been paid to a vendor by the campaign that were then returned or rebated to the campaign. Two were returns of deposits from the phone company, one was a rebate of left over money at a radio station, one was a return of a deposit from the City of North Miami Beach, and one was a refund from a vendor. None of them were contributions to the campaign.
12. There was no in-kind contribution. Lew Freeman sent me an invoice for \$24,000, which I refused to pay since I found it to be excessive. We agreed on a reduced amount of \$6,000 for the services provided. Please contact Mr. Freeman at your

convenience and he can verify the events. In fact, I am attaching hereto from your own report a copy of the original invoice and a copy of the revised invoice. I would hope this would also remove the Lewis B. Freeman check from the list of undocumented expenses in your Exhibit A.

13. It is my understanding that 1099s were not filed. I will work with my treasurer to file 1099s in those cases where we have social security numbers.

14. I believe that your office has been in communication with my treasurer on the issue of the total amount of expenditures. Amended reports were filed that account for the \$26,667.74 discrepancy. Every penny raised was spent on the campaign. There may have been some mathematical errors in reporting (approximately 1%, which is statistically insignificant), but those have been corrected by my treasurer.

I have tried to be as responsive as possible, but I cannot recreate records after the fact. I can assure you that there were no willful violations of campaign finance law on my part and that I will continue to cooperate with the Ethics Commission as this process moves forward.

I do want to make one editorial comment with the intention of influencing future policy. When the audit requirement was created, the intention of the Board of County Commissioners (as one of those who voted on it) was to ensure that the public money was in fact spent on the campaign. It clearly has become more than that. It is now a full audit of the campaign for compliance with all federal, state and local laws. While I do not object to that fact that a campaign should comply with the law, that standard should be applied to all campaigns, regardless of the source of the funds. I do think it is a disincentive to the use of public funds to expose publicly financed candidates to such an audit while those that do not use public funds pass below the radar screen. If you are not going to audit all campaigns to that extent, then you open yourself up to the criticism that laws are being selectively enforced against those candidates that choose to use public funds. I think that that is an issue that the Ethics Commission and the Board of County Commissioners should address going forward.

Thank you for your cooperation in this matter. Please do not hesitate to contact me to discuss any of the foregoing.

Very truly yours,

Jimmy L. Morales

Enclosures
cc: Lewis B. Freeman